

BECKER & POLIAKOFF LLP

Helen Davis Chaitman, Esq. (4266)

45 Broadway

New York, New York 10006

hchaitman@bplegal.com

*Attorneys for Defendants RAR Entrepreneurial Fund, Ltd.
and Russell Oasis*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the
Liquidation of Bernard L. Madoff Investment
Securities LLC,

Plaintiff,

v.

RAR ENTREPRENEURIAL FUND, LTD., et
al.,

Defendants.

SIPA LIQUIDATION

Adv. Pro. No. 08-01789 (SMB)

(Substantively Consolidated)

Adv. Pro. No. 10-04352 (SMB)

Appeal No. _____

**APPELLANTS' ITEMS DESIGNATED FOR THE RECORD ON APPEAL
AND STATEMENT OF ISSUES ON APPEAL**

PLEASE TAKE NOTICE that Defendants RAR Entrepreneurial Fund, Ltd. and Russell Oasis ("Appellants"), pursuant to 28 U.S.C. § 158(a) and Federal Rule of Bankruptcy Procedure 8003, hereby identify the following issue(s) to be presented on appeal and designate the items to

be included in the record on appeal to the United States District Court for the Southern District of New York from the *Order Granting in Part and Denying in Part Defendants' Motion to Dismiss* entered on July 16, 2015 in their adversary proceeding (ECF No. 65), and related *Memorandum Decision Regarding Omnibus Motion to Dismiss* entered on June 2, 2015 (ECF No. 61), (Hon. Stuart M. Bernstein).

STATEMENT OF ISSUE TO BE PRESENTED ON APPEAL

Did the Bankruptcy Court err in holding, as a matter of law, that the Trustee's 15% interest in the fees paid to his law firm, Baker & Hostetler LLP, by the Securities Investor Protection Corporation does not violate the Appellants' due process rights when the Trustee is, admittedly, a quasi-governmental official and he has an economic interest in prosecuting litigation, regardless of the merits of the litigation?

DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD ON APPEAL

The Appellants hereby designate the following items to be included in the record on appeal:

Picard v. RAR Entrepreneurial Fund, Ltd, et al., Adv. Pro. No. 10-04352 (Bankr. S.D.N.Y.)

FILING DATE	ECF NO.	DESCRIPTION
10/31/2013	48	Motion to Dismiss Adversary Proceeding filed by Helen Chaitman on behalf of Defendants listed on Exhibits A and B to the Notice of Motion; Declaration of Helen Davis Chaitman, Esq. in Support of Defendants' Motion with Exhibits 1-5. (Chaitman, Helen)
11/1/2013	49	Omnibus Memorandum of Law in Support of Motions to Dismiss (related document(s)48) filed by Julie Gorchkova on behalf of Russell Oasis, RAR Entrepreneurial Fund, LTD. (Gorchkova, Julie)
11/26/2013	50	Letter to Honorable Burton R. Lifland filed by Helen Chaitman on behalf of Russell Oasis, RAR Entrepreneurial Fund, LTD.,. (Attachments: # 1 Declaration # 2 Exhibit A # 3 Exhibit B # 4 Exhibit C # 5 Exhibit D # 6 Exhibit E # 7 Exhibit F # 8 Exhibit G)(Chaitman, Helen) Modified on 12/2/2013 (Richards, Beverly).
1/17/2014	53	Opposition Brief Memorandum of Law of the Securities Investor Protection Corporation in Opposition to Defendants' Motions to

FILING DATE	ECF NO.	DESCRIPTION
		Dismiss (related document(s)48) filed by Kevin H. Bell on behalf of SIPC. (Attachments: # 1 Certificate of Service) (Bell, Kevin)
1/17/2014	54	Opposition /Trustee's Memorandum of Law in Opposition to Defendants' Motions to Dismiss (related document(s)49, 48) filed by Keith R. Murphy on behalf of Irving H. Picard, Trustee for the Liquidation of Bernard L. Madoff Investment Securities LLC, and Bernard L. Madoff. (Murphy, Keith)
1/17/2014	55	Declaration /Declaration of Nicholas J. Cremona, pursuant to 28 U.S.C. § 1746, in Support of Trustee's Memorandum of Law in Opposition to Defendants' Motions to Dismiss (related document(s)54) filed by Keith R. Murphy on behalf of Irving H. Picard, Trustee for the Liquidation of Bernard L. Madoff Investment Securities LLC, and Bernard L. Madoff. (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4) (Murphy, Keith)
2/21/2014	59	Reply Declaration of Helen Davis Chaitman in further support of Motions to Dismiss (related document(s)48) filed by Helen Chaitman on behalf of Russell Oasis, RAR Entrepreneurial Fund, LTD.,. (Attachments: # 1 Exhibit # 2 Exhibit) (Chaitman, Helen)
2/21/2014	60	Reply Memorandum of Law Defendants' Omnibus Reply Brief in Further Support of Motions to Dismiss filed by Julie Gorchkova on behalf of Russell Oasis, RAR Entrepreneurial Fund, LTD.,. (Gorchkova, Julie)
6/2/2015	61	Written Opinion Signed On 6/2/2015. Re: Memorandum Decision Regarding Omnibus Motions To Dismiss (Greene, Chantel)
6/15/2015	62	Notice of Settlement of an Order regarding June 2, 2015 Decision re: Omnibus Motions to Dismiss (related document(s)61) filed by Nicholas Cremona on behalf of Irving H. Picard, Trustee for the Liquidation of Bernard L. Madoff Investment Securities LLC, and Bernard L. Madoff. (Cremona, Nicholas)
	64	Affidavit of Service (related document(s)62) Filed by David J. Sheehan on behalf of Irving H. Picard, Trustee for the Liquidation of Bernard L. Madoff Investment Securities LLC, and Bernard L. Madoff. (Sheehan, David)
7/16/2015	65	Order Signed On 07/16/2015 Re: Granting In Part And Denying In Part Defendants Motions To Dismiss (Greene, Chantel).
7/30/2015	66	Notice of Appeal (related document(s)65) filed by Helen Chaitman on behalf of Russell Oasis, RAR Entrepreneurial Fund, LTD.,. (Attachments: # 1 Exhibit A # 2 Exhibit B)(Chaitman, Helen)
7/30/2015	67	Motion for Leave to Appeal Notice of Motion for Leave to Appeal Order Granting in Part and Denying in Part Defendants' Motion to Dismiss (related document(s)65) filed by Helen Chaitman on behalf of Russell Oasis, RAR Entrepreneurial Fund, LTD.,. (Chaitman, Helen)

FILING DATE	ECF NO.	DESCRIPTION
7/30/2015	68	Memorandum of Law Memorandum of Law in Support of Motion for Leave to Appeal (related document(s)67) filed by Helen Chaitman on behalf of Russell Oasis, RAR Entrepreneurial Fund, LTD.,. (Chaitman, Helen)
7/30/2015	69	Declaration of Helen Davis Chaitman in Support of Motion for Leave to Appeal (related document(s)67) filed by Helen Chaitman on behalf of Russell Oasis, RAR Entrepreneurial Fund, LTD.,. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit C # 4 Exhibit D # 5 Exhibit E # 6 Exhibit F # 7 Exhibit G # 8 Exhibit H) (Chaitman, Helen)
7/30/2015	70	Certificate of Service [ECF Nos. 66, 67, 68, 69] (related document(s)67) Filed by Helen Chaitman on behalf of Russell Oasis, RAR Entrepreneurial Fund, LTD.,. (Chaitman, Helen)

SIPC v. BLMIS, 08-01789 (SMB)

FILING DATE	ECF NO.	DESCRIPTION
9/5/2014	7871	So Ordered Memorandum Endorsed Order Signed On 9/5/2014. Re: The Court Declines To Sign This Order To Show Cause Because No Additional Hearing Is Necessary. Instead, The Court Will Consider The Defendants Proposed Submission To Supplement Their Motions To Dismiss At The Hearing On Those Motions. The Trustee And SIPC May Serve And File Letter Responses Not Exceeding Three Pages Each To The Issue Raised By The Proposed Submission No Later Than September 12, 2014. The Defendants Counsel Is Directed To Serve A Copy Of This Order And The Papers To Which It Refers No Later Than 5 Pm On September 5, 2014 Upon Counsel For The Trustee And SIPC By Email Or Facsimile. (Greene, Chantel)
9/5/2014	7872	Declaration of Helen Davis Chaitman, Esq. in Support of Defendants' Application to File this Declaration in Further Support of Motions to Dismiss filed by Helen Chaitman on behalf of Robert Roman. (Attachments: # 1 Exhibit A # 2 Certificate of Service) (Chaitman, Helen)
9/12/2014	7936	Letter dated September 12, 2014 to the Honorable Stuart M. Bernstein (related document(s)7862) filed by Nicholas Cremona on behalf of Irving H. Picard. (Cremona, Nicholas)
11/11/2014	8636	Transcript regarding Hearing Held on 9/17/2014 1:32PM RE: Status Conference re Affect Dist. Ct. Extraterritoriality Order; Becker & Poliakoff LLP Motions to Dismiss and Motions to Dismiss Listed on Appendix A to the Trustees February 20 Letter to the Court, as amended.

August 13, 2015

BECKER & POLIAKOFF LLP

By: /s/ Helen Davis Chaitman
Helen Davis Chaitman
45 Broadway
New York, New York 10006
(212) 599-3322

*Attorneys for Defendants RAR
Entrepreneurial Fund, Ltd. and Russell
Oasis*

CERTIFICATE OF SERVICE

I, Chelsey Davis, hereby certify that I caused a true and correct copy of the foregoing document to be served upon the parties in this action who receive electronic service through CM/ECF. I certify under penalty of perjury that the foregoing is true and correct.

Dated: August 13, 2015

/s/ Chelsey Davis